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May 9, 2023

**VIA ECF**

Hon. Brian R. Martinotti, U.S.D.J.  
United States District Court  
Martin Luther King Federal Bldg.  
50 Walnut Street  
Newark, New Jersey 07102

**Re: *In re Insulin Pricing Litigation*, Civil Action No. 2:17-cv-699 (BRM) (ESK)  
Notice of Third Circuit Supplemental Authority**

Dear Judge Martinotti:

Defendants Sanofi-Aventis U.S. LLC and Novo Nordisk Inc. write regarding the Third Circuit's recent decision in *In Re: Niaspan Antitrust Litigation*, No. 21-2895 (3d Cir. Apr. 24, 2023; unsealed May 4, 2023), which is directly relevant to the pending motion for class certification in this case and is attached hereto. As the Court may be aware, the Third Circuit in *Niaspan* reaffirmed that "[t]he ascertainability standard, including the administrative feasibility principle it contains, is true to the text, structure, and purpose of Rule 23." *Id.* at 30. The Third Circuit also affirmed the district court's determination that the *Niaspan* plaintiffs had not satisfied the ascertainability standard, and thus affirmed the denial of class certification. *Id.* at 33–46.

Should Your Honor have any questions, we are always available.

Respectfully submitted,

*s/ Liza M. Walsh*

Liza M. Walsh

Encl.

cc: All Counsel of Record (via ECF and Email)